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Isle of Man Road Transport Licensing Committee

Annual Report 2011
for the year ended 31st March 2011

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In addition, the RTLC approved a wide range of amendments to bus routes and timetables in September 2010, following a major review of the Bus Network on the Island. A further 9 applications for variations to bus service licences were also heard and considered during the year, one of which was refused as it was not considered to be in the public interest.

The Committee issued no new taxi licences, and whilst 13 applications were received from existing and new operators for additional licences, all were refused. Approval was however granted for a further 11 Private Hire cars, 1 Trike, and 3 minibuses, where no limitation on numbers of licences exists.

The vast majority of applications were from existing operators seeking to take over existing businesses/licences, and from existing drivers who were seeking an opportunity to operate a taxi business in their own right.

The workload of the Committee and its staff continues to be focused on issues and difficulties surrounding the licensing of Ply for Hire taxis and Private Hire cars and minibuses, and on disciplinary and tribunal sessions involving Public Passenger Vehicle operators and drivers. However, the introduction of the New Bus Network, and subsequent applications to change bus timetables and routes has also impacted on the workload.

Licensing Statistics

As at 1 April 2011, the RTLC was responsible for the licensing and registration of 221 PPV Operators, 551 vehicles, of which 233 were taxis; plus 1,326 PPV drivers, of which approximately 600 are taxi drivers.

A total of 145 new applications for PPV Driver Licences were received during the year, 69 of which were for taxi driver licences, and the remaining 76 for minibus and bus licences. The Committee also processed 226 PPV Driver Licence renewals.

Tribunal Sessions

The Committee held a number of disciplinary hearings and Inquiries during the year. One PPV Driver Licence was subsequently revoked, and periods of suspension were imposed in relation to two others Licences. One appeal to the High Bailiff was lodged against a decision of the RTLC, but such appeal was subsequently withdrawn.

Safety

The RTLC has made provision for specialist and certificated training opportunities for PPV drivers in the care and handling of wheelchair and disabled passengers, which is supported by the Department of Economic Development.

PPV drivers can now avail themselves of this training initiative, with a total of 32 drivers having now been certificated in the care and handling of wheelchair and disabled passengers.

The Committee has also previously issued a public safety leaflet to raise awareness and a better understanding of the services provided by taxis and Private Hire cars and minibuses.

Quality

It is recognised that drivers of Ply for Hire taxis and Private Hire cars and minibuses play a significant and vital role in providing services to the public, and a new customised training course has been designed for taxi drivers, which is aimed at improving customer care and providing a manx welcome.

As at 1 April 2011, a total of 249 drivers had been accredited to the required standards.

RTLC Website

A website, www.gov.im/rtlc, is maintained to assist operators and drivers, and the public, in gaining access to information, and in raising awareness of the Committee's functions and responsibilities.

Staff

The RTLC is supported by a small team of staff comprising of a Secretary, an Administrative Officer (AO), and a part-time Inspector with responsibility for enforcement. The AO gained promotion within IOM Government in March 2011, and the loss of such expertise and specialist knowledge gained by the Officer over a 7 year period will impact significantly on the workload of such a small team.

Much of the staff's time and resources continues to be taken up in dealing with new challenges, and a wide range of problems associated with the licensing of taxis. It is evident that whilst the present level of difficulties continues to exist with regard to taxi licensing, current staff resources could not possibly cope with the additional workload generated by the proposed introduction of Goods Vehicle Operator Licensing, and consideration will need to be given to a review and evaluation of staffing to meet future demands and responsibilities.

Advisor

A specialist advisor, Mr Michael Hicks, had been appointed to provide assistance and guidance to the Committee in relation to the introduction of the new legislation in April 2002. However, following the sad and untimely death of Mr Hicks in 2002, the Committee has, since that time, been tasked with carrying out their duties and responsibilities under the Act without the benefit of a professional advisor.

The Committee is pleased to note that the Department of Infrastructure has appointed a Transport Consultant, and Legal Advisors to draft regulations in readiness for the introduction of Goods Vehicle Operator Licensing.

It is anticipated that the services of the Consultant and Advisors will prove beneficial to the Committee in providing the appropriate legal expertise, advice and guidance in connection

with the introduction of Goods Vehicle Operator Licensing, and also in dealing with the ongoing difficulties associated with taxi licensing.

Training

In addition to Government's public service training opportunities, the RTLC has supported and invested in specialist training for its staff through residential Hackney and Private Hire courses organised by the National Association of Licensing Enforcement Officers (NALEO). Such courses are recognised nationally as part of the process for qualification for BTEC awards in licensing and enforcement.

Expenses

The expenses of the RTLC are met from funds provided by Tynwald, and are supplemented by income from licensing fees. The Committee has kept expenditure within the approved limits, but it is recognised that the current fees set by Treasury do not contribute significantly to reducing net expenditure, or to achieving self-funding.

Net expenditure for the year ended 31 March 2011 was £83,532, and it is noted that expenditure has been maintained within budget for each financial year since 2002. Income from licensing fees and other items for the year ended 31 March 2011 totalled £34,104.

The Committee is mindful that licensing fees have not been increased since April 2002, and that a review of the fees has previously been delayed in order to await a decision by Tynwald in respect of Schedule 2 of the Act. However, more recently, it has been agreed that a review of the fees should be carried out with a view to the RTLC recommending an increase.

Taxi Fares

A review of the maximum fares to be charged by Ply for Hire taxis was carried out by the RTLC from January 2011, with the revised fares taking effect from 1st April 2011.

The Committee and the taxi trade were conscious that there had been a significant increase in fuel and motoring expenditure since the last review, and that an allowance for such costs should normally be reflected in taxi fares. However, the Committee and the taxi trade in general were mindful of the needs of the public and the current economic climate, and the danger of increasing fares to levels which could prove counterproductive to the taxi industry. It was noted that at the time, the latest inflation figures issued by Treasury identified an increase of 10.9% on motoring expenditure.

The Committee determined therefore that an increase of 5% be applied to the charges for distance and time on Tariffs 1 and 2, and that no increase be applied to the Flag Drop, or minimum fare.

It is important to note that Ply for Hire fares are set at a maximum by the RTLC, and that in principle they are open to downward negotiation between the passenger and the driver. The Committee has no power to set fares in respect of Private Hire journeys.

In reviewing the fares, the Committee paid particular regard to the needs of the travelling public, to what is reasonable to expect people to pay, and also the need to give taxi drivers sufficient incentive to provide a service when it is needed.

Legislation

The Act and the Transitional Provisions of Schedule 2 / Quantity Restrictions

Many of the challenges facing the RTLC continue to be generated by a requirement to limit numbers of Ply for Hire taxi licences, and to apply a District or zoning licensing system for Ply for Hire taxis, in accordance with the transitional provisions of Schedule 2 of the Act.

However, it is acknowledged that numbers of applications for new Ply for Hire taxi licences has decreased, which may in part be due to evidence of the Committee's refusal of previous applications. It is also apparent that new and existing taxi operators who wish to invest in a taxi business, are more likely to takeover existing businesses and licences which attract an artificial value.

It is important to note that the Act itself is intended to de-limit numbers of taxi licences, and to make provision for all-Island taxi licensing. There is no provision in the Act for the Committee to assess or determine a need for new taxi licences. The transitional provisions of Schedule 2, are therefore in conflict with the purpose and intentions of the Act.

The transitional provisions of Schedule 2 of the Act were originally intended to apply for a 5-year period from 1 April 2002 until 1 April 2007, but Tynwald decided in October 2005, to delay a decision with regard to the removal of the temporary provisions until 1 April 2008. A Motion was also carried at that time, to the effect that the Minister for Transport should commence to undertake such consultations as are necessary with a view to the Department submitting an Order to Tynwald for approval to remove all or part of the transitional provisions by 1 April 2008. However, such Order was delayed, and Tynwald subsequently decided in May 2008 that the Department should carry out further consultation with regard to its proposal to revoke the transitional provisions of Schedule 2 of the Act, and to report its findings to Tynwald by November 2008. It was subsequently announced in Tynwald that the report would be delayed until February 2009.

The RTLC then issued a Policy Statement on 13 January 2009 to explain that since an early resolution of the difficulties presented by the continuing delays was unlikely, the delay in hearing outstanding applications could no longer be justified. Tynwald then passed a Motion on 20 January 2009 to the effect that the RTLC should delay the resumption of hearings until after the Department reports to Tynwald in March 2009. The Motion was acknowledged by the RTLC.

The Department's report was presented to Tynwald in March 2009. The report contained a number of wide ranging recommendations which, "rely on the implementation of them all to secure the validity and effectiveness of them individually". It was also noted from the report that if the recommendations are to be accepted, then there would be a need for changes to primary legislation, which the Attorney General's Chambers estimated would take at least 18 to 24 months to come into force. It was noted that Tynwald had agreed at the March

sitting, that the Department of Infrastructure be required to undertake further consultation on its recommendations before reporting back to Tynwald again in June 2009.

Tynwald subsequently received the Department's "Report on the Consultation on the Effects of the Recommendations proposed to the Road Transport Act 2001", in July 2009, and following a lengthy debate, the Report, which contained a raft of 13 separate recommendations, was approved by Tynwald as "the best and most appropriate approach to improving the Island's taxi services".

It is noted that in response to a question in Tynwald in November 2009, the Department confirmed that a consultant had been appointed to advise on the implications of the recommendations approved in July 2009, and also to assist with the consultation and to draft instructions to implement the relevant changes to legislation.

The Committee was pleased to note that Tynwald had, at the time, acknowledged the difficulties faced by the RTLC, and also that the Committee was duty bound to carry out its responsibilities under the Act by proceeding with the hearing of outstanding applications.

The Committee decided therefore, that due to the ongoing delays, it was reasonable to proceed with hearings of the outstanding applications as soon as possible.

The Department subsequently carried out a consultation exercise in late 2010, to assess the views of the public in respect of all-Island taxi licensing, and the limitation on numbers of taxis. As a result of that exercise, the Department decided to present an Order to Tynwald in March 2011, with a view to revoking part of Schedule 2 of the Act through the introduction of all-Island licensing. However, the Motion was withdrawn for a period of 2 months to enable the Department to set up a working group, to further consider the effectiveness of the proposed new all-Island taxi licensing system.

Whilst it is disappointing to note that changes to the legislation are still awaited, the RTLC continues to be committed to discharging its duty and obligations in accordance with the existing legislation. However, the Committee cannot function effectively whilst the current conflict exists within the Act. It is evident that a significant amount of time and resources has been taken up in dealing with quantity controls, rather than quality controls, and that any decision by the Committee to grant or refuse a licence is open to legal challenge.

The Committee notes that any decision by Tynwald to retain part of the transitional provisions of Schedule 2, and to implement additional changes to the legislation, will prompt a full review of the Act and the subordinate regulations that the Committee has a duty to enforce.

Sale of Taxi Businesses/"Trading" in Taxi Plates

In most cases where quantity restrictions are imposed, taxi "plates" or businesses command an artificial value. It is apparent that taxi licences in the East District of the Island have previously been valued at up to £40,000, but are now trading at nearer £20,000. This indicates that there are people who want to enter the taxi market and provide a service to the public. Concerns have been expressed within the taxi trade, with regard to a small minority of applicants who have been issued with "free" licences, who can then subsequently decide to sell the business at a profit within a short timescale.

The licence or taxi "plate" is technically the property of the RTLC, and is not therefore available for sale. Regulations do however provide for the transfer or takeover of a taxi business, and the premium value of such a business is both artificial and unofficial in that there is no statutory provision to authorise such a value. The Committee does not have the power to prevent the transfer or takeover of a taxi business, or to restrict the sale of a business within a given timescale, even in circumstances where it is evident that a taxi plate is dormant and no actual business exists.

It is evident that whilst a great deal of uncertainty exists with regard to the potential impact on the taxi trade should Tynwald decide to remove part of the transitional provisions of Schedule 2 of the Act, businesses continue to be traded at artificial values even though a decision is apparently imminent.

It is important to note that problems associated with the sale, and trading of taxi businesses or "plates" only arise where a limit is placed on the overall number of taxi licences, and it is evident that such difficulties will persist whilst the transitional provisions of Schedule 2 of the Act continue to provide for quantity controls.

Private Hire

It is important to note that applications to operate additional Private Hire vehicles are not subject to the transitional provisions of Schedule 2 of the Act, and that the Committee has no authority to restrict the numbers of such class of vehicles. Services of Private Hire can also be operated on an all-Island basis.

It is evident that the vast majority of taxi journeys originate from a Private Hire booking, e.g. by mobile phone; rather than Ply for Hire where the vehicle is hailed at a taxi rank or in the street.

It is noted that numbers of applications to operate Private Hire cars has increased, which is largely due to the problems generated by the limit on numbers of Ply for Hire taxis.

Renting of Taxi Plates

The RTLC shares the concerns of the taxi trade with regard to the apparent practice of "renting taxi plates". While such practice is illegal, it has not proved possible to identify the actual arrangements or agreements that exist, due to the reluctance of drivers and operators to provide any real evidence. The "renting of taxi plates" can, on occasions, generate income for a number of people, including the operator, the manager, and the driver(s).

It is important to note that problems associated with the "renting of taxi plates" only arise where a limit is placed on the overall number of taxi licences, and it is evident that such difficulties will persist whilst the transitional provisions of Schedule 2 of the Act continue to provide for quantity controls.

Taxi Districts or Zones

The Act provides for the introduction of an all-Island licensing system, which would likely increase the supply of taxis and the scope for customer choice. It would also likely promote fuel efficiency, and better utilisation of vehicles, time and resources.

The present District or zoning system which operates in accordance with the transitional provisions, can be confusing and frustrating to the public, who sometimes do not understand that a taxi is restricted to plying for hire in its licensed District.

Some members of the taxi trade are concerned that the removal of the District system will result in a proliferation of out-of town taxis in the Douglas area (East District), which could in turn result in a shortfall in the number of taxis available in other areas of the Island. The views and aspirations of taxi operators within the trade do however vary, depending on which District or area of the Island they are currently licensed to serve.

It is noted that Tynwald has approved a recommendation that legislation be amended in order to make provision for all-Island taxi licensing, but that such legislative change is still awaited.

Taxi Survey

Where a view is taken that a limit on the number of taxi licences can be justified, the issue is often addressed by means of a taxi survey, which must be carried out sufficiently frequently to be able to respond to any challenge to the satisfaction of the Courts. In England and Wales, 75% of taxi licensing authorities have no restrictions on numbers, or have voted to remove restrictions.

A survey was carried out on the Island in the Autumn of 2006, with the findings published in a report in December 2006. The report concluded that, "there does not exist a significant unmet demand for Ply for Hire taxis across the Isle of Man at this time", but also recommended that consideration should be given to the provision of further wheelchair and disabled access taxis.

Such surveys are largely concentrated on the ply for hire market at taxi ranks, as it is more difficult to assess demand from people who hail a taxi in the street; latent demand; or where journeys are booked under a Private Hire arrangement.

The Committee has expressed concern regarding the methodology of the survey carried out on the Island, and is agreed that if consideration is to be given to a further survey, then it would need to be of a different type to the one carried out in 2006.

Surveys can also prove costly, and while the anticipated life of the survey is 3 years, it should be noted that case law in Scotland provides that any assessment that pre-dates an application for a taxi licence is historical, and a survey conducted some time previously is worthless. A number of licensing authorities in Scotland subsequently decided to remove their limit on taxi licences due partly to the case law, as the need to commission between 3 and 5 interim surveys per year was considered to be too costly.

The Committee understands that the taxi survey carried out on the Island in 2006 cost in the region of £27,000. Such survey had an anticipated useful life of 3 years, and so it is now evident that the findings are no longer valid, and would not likely stand up to legal challenge.

It is noted from the requirements of the transitional provisions of the Act, that in determining an application for a taxi licence, the RTLC must take into account, "**whether there are, or are likely to be,** enough taxi licences to fulfil all reasonable needs at all times and places". In such circumstances, the Committee would therefore need to be careful to ensure that when hearing applications for new licences, any assessment of demand at the time was not only current, but also forward thinking, in order to avoid the potential of a successful challenge in the Courts.

The Committee notes that the raft of recommendations approved by Tynwald in July 2009 included provision for a legislative need or demand point to assist the RTLC in determining whether to issue additional Ply for Hire taxi licences. However, it is now apparent that Tynwald considers the recommendations are impractical or unachievable, as the Order to revoke part of Schedule 2 of the Road Transport Act 2001, which was presented to Tynwald by the Department of Infrastructure in March 2011, makes provision for only one of the recommendations, i.e. all-Island Taxi Licensing. It is disappointing to note therefore, that the main difficulty facing the Committee in assessing and determining quantity controls still exists.

Representative Bodies of the Taxi Trade

Representation of the taxi trade on the Island is very limited, and is primarily focused on the provision of taxi services in the East District (the Douglas and Onchan area), and at the Airport.

The two bodies that represent the trade are listed as the "Manx Taxi Federation", and the "Castletown and Southern Taxi Association".

Availability of Taxis

The RTLC continues to receive complaints regarding a lack of availability of taxis in certain areas of the Island, at certain times, mainly at the Airport and the Sea Terminal. The RTLC arranged a meeting at the Airport in April 2010 with Airport taxi operators and drivers, and the Airport authority, with a view to seeking ways to improve the availability of taxis, particularly during evenings and at week-ends. It is apparent however, that whilst there are a significant number of taxis licensed to serve the Airport, there is still a shortage at certain times.

It is evident that the actual number of taxis licensed is not the most appropriate measure of supply, and that while some operators and drivers work long hours and provide a very effective service, others choose to work few hours, and in some cases licences are not used at all. It is worth noting that two identical numbers of taxis can easily manifest fundamentally different measures of supply, insofar as the numbers of drivers, or more accurately drivers hours worked, is a more accurate measure.

The Committee cannot control the hours worked by a driver or operator. It is important to note therefore, that the Committee does not have the power to restrict the issue of licences to full-time operators or drivers.

Mr D Evans, Chairman



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Mr J K Watterson, Vice-Chairman



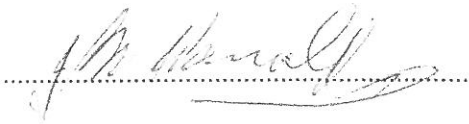
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Mr A C Collister




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Mr J M Wormald



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Mr F A Peck



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B E Leece
Secretary, RTLC